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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,584

03/25/2004

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EXAMINER

DUNCAN, MARC M

ART UNIT

PAPER NUMBER

2113

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/809,584	Applicant(s) CHILDRESS ET AL.	
	Examiner Marc Duncan	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL REJECTION

Status of the Claims

Claims 19-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-20 rejected under 35 U.S.C. 102(a) as being anticipated by Holt et al. (WO 03/098449 A1).

Claim 20 is objected to.

Claim Objections

Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 19-20 are not limited to tangible embodiments. In view of Applicant's disclosure. Specification page 16 line 16-page 17, line 4 , the medium is not limited to tangible embodiments, instead being defined as

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including both tangible embodiments (e.g., floppy disk, hard disk, etc.) and intangible embodiments (e.g., transmission-type media). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-20 rejected under 35 U.S.C. 102(a) as being anticipated by Holt et al. (WO 03/098449 A1).

Regarding claim 1:

Holt teaches:

a plurality of notification units (paragraph 0017 lines 5-7);

a network coupled to said plurality of notification units, said network operable to determine whether each notification unit of said plurality of notification units is available to receive system management information (Fig. 1 and paragraph 0030); and

a plurality of management units coupled to said network (Fig. 3), at least one management unit of said plurality of management units configured to perform the steps:

generate said system management information (paragraph 0017 lines 1-3);

determine an identity of an intended recipient for said system management information (paragraph 0024 lines 10-12);

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associate said identity with at least one notification unit of said plurality of notification units (paragraph 0017 lines 5-7 and paragraph 0030 lines 5-8);

determine whether said at least one notification unit is available to receive said system management information (paragraph 0030); and

send said system management information to said at least one notification unit via a notification handler if said at least one notification unit is available to receive said system management information (paragraph 0017).

Regarding claim 2:

Holt teaches:

wherein said notification handler converts said system management information into a form that is appropriate for the notification unit (paragraphs 0030-0033 – the notification can be sent in any format (i.e. instant message, email, etc.) depending on the appropriate format for the notification unit the message is sent to).

Regarding claim 3:

Holt teaches:

wherein said network comprises a presence network (paragraph 0015).

Regarding claim 4:

Holt teaches:

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wherein said network comprises an instant messaging network (paragraph 0030).

Regarding claim 5:

Holt teaches:

wherein said at least one notification unit comprises an instant messaging client associated with said intended recipient (paragraph 0030).

Regarding claim 6:

Holt teaches:

wherein said at least one management unit comprises at least one of a management agent and a managed resource (Fig. 3 – the various servers are clearly equivalent to management agents or managed resources).

Regarding claim 7:

Holt teaches:

wherein said system management information comprises event information or notification information (paragraph 0017 lines 3-5).

Regarding claim 8:

Holt teaches:

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wherein said intended recipient comprises at least one of an entity, party and person having a responsibility for responding to said system management information (paragraphs 0004 and 0017).

Regarding claim 9:

Holt teaches:

wherein the operation to determine said identity comprises an operation to access an on-call list of responsible entities, parties or persons (paragraph 0024).

Regarding claims 10-18:

The claims are rejected as the methods of using the systems of claims 1-9.

Regarding claims 19-20:

The claims are rejected as the program products causing the methods of claims 10-11 to be performed.

Response to Arguments

Applicant's arguments filed 10/24/06 have been fully considered but they are not persuasive.

Regarding applicant's argument concerning the rejection under 35 USC 101, the examiner respectfully disagrees. Under the current office policy as governed by the

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interim guidelines concerning statutory subject matter, a claim that is not limited to tangible embodiments is considered non-statutory. The rejection is maintained.

Regarding applicant's argument that Holt does not disclose system management information and instead discloses only user information, the examiner respectfully disagrees. System management information is clearly defined in applicant's specification to include notification or event information (Specification page 5, lines 21-24). The notification message of Holt clearly meets this definition of system management information. The rejection is maintained.

Regarding applicant's argument concerning currently amended claim 2, the examiner respectfully disagrees. Please see the above citations to pertinent sections of the Holt reference wherein the information is converted to a specific format prior to sending to the receiving device.

Regarding applicant's argument that Holt does not teach the intended recipient being a person responsible for responding to the information, the examiner respectfully disagrees. It is clear in the sections of Holt cited above that the recipient being notified of the information in Holt is the person responsible for responding to the message with a further communication message if such message is desired to be sent. Responsibility to respond does not require that a response be made. Responsibility to respond only implies that, were a response to be made, the person receiving the management information would be the person to make such a response. The rejection is maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Duncan whose telephone number is 571-272-3646. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

md

A handwritten signature in black ink, appearing to read "Robert M. Bransford". The signature is stylized with a large, prominent "R" and "B".